

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

RUSSELL JENKINS,

Plaintiff(s),

v.

JAMES RIVER INSURANCE COMPANY,

Defendant(s).

Case No. 2:21-cv-01969-JCM-NJK

**Order**

[Docket No. 17]

Pending before the Court is Defendant's motion to stay discovery pending resolution of its motion for summary judgment. Docket No. 17.<sup>1</sup> Plaintiff filed a response. Docket No. 22. Defendant filed a reply. Docket No. 25. The motion is properly resolved without a hearing. *See* Local Rule 78-1.

The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed absent a "strong showing" to the contrary. *Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). Requests to stay discovery may be granted when: (1) the underlying motion is potentially dispositive in scope and effect; (2) the underlying motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the underlying motion and is convinced that the plaintiff will be unable to prevail. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013). The Court is guided in its

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<sup>1</sup> The motion for summary judgment is fully briefed. Docket No. 16 (motion); Docket No. 26 (response); Docket No. 27 (reply).

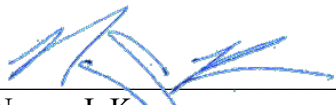
1 analysis by the objectives in Rule 1 to secure a just, speedy, and inexpensive determination of  
2 cases. *Tradebay*, 278 F.R.D. at 602.

3 A stay of discovery is appropriate here. Plaintiff admits that the motion for summary  
4 judgment is potentially dispositive and that it can be decided without additional discovery. Docket  
5 No. 22 at 6. Moreover, the undersigned's evaluation of the motion for summary judgment reveals  
6 that it is sufficiently meritorious to justify a stay of discovery.<sup>2</sup>

7 Accordingly, the motion to stay discovery is **GRANTED**. In the event resolution of the  
8 motion for summary judgment does not result in the termination of this case, a discovery plan or  
9 joint status report must be filed within 14 days of the issuance of such order.

10 IT IS SO ORDERED.

11 Dated: March 28, 2022

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14 Nancy J. Koppe  
15 United States Magistrate Judge  
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26 <sup>2</sup> Conducting the preliminary peek puts the undersigned in an awkward position because  
27 the assigned district judge who will decide the underlying motion may have a different view of its  
28 merits. *See Tradebay*, 278 F.R.D. at 603. This "preliminary peek" at the merits of the underlying  
motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not  
provide a lengthy discussion of the merits of the underlying motion. Nonetheless, the undersigned  
has carefully reviewed the arguments presented in the underlying motion and subsequent briefing.